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A Letter from the Executive Director

Barry A. Cassidy, Ph.D., PA-C



The 2003-2004 fiscal year has come to a close. As you will read in this newsletter, legislative activity was high last year as many changes were made to existing laws and as new laws were put into place.

As licensed physicians it is your responsibility to become familiar with the State laws for medical practice. Through media like this and our website, www.azmdboard.org, the Board will make as much information about these and other changes available to you in a timely and convenient manner.

Additionally, as the Board received close to four million hits to its physician profile section of the website last year, I would like to remind you to ensure that your contact information is correct and up to date. An increasing number of citizens access these profiles every year and rely on the information you

provide the Board. It is also an opportunity to ensure that the Board has the most current information on your training history. Often, physicians are in a residency or fellowship program at the time of licensure and do not notify the Board when that training program is complete. While you are not required to provide that information after licensure, it does help to alleviate confusion among consumers and credentialing experts.

Finally, on another note, I would like to thank the citizens and physicians of this State for the support you have shown this Board over the last several years. We have dedicated ourselves to licensing and regulating licensees in a way that protects patients from harmful practices of medicine while providing a fair and balanced system for physicians to defend themselves. To that

end, I believe we have made progress. Not only has this Board been recognized nationally for its accomplishments, it has received words of thanks and praise from physicians newly licensed in Arizona and at times, even from the physicians and attorneys who appear before the Board.

As always, I encourage you to involve yourselves in these and other regulatory issues. Your feedback is appreciated and is often the stimulus for change. You can reach the Board by calling (480) 551-2700 or through e-mail at questions@azmdboard.org.

Changes to Medical Record Laws

Significant changes to the medical records laws applying to all health care providers will go into effect September 2004. Many of these changes clarified existing language and updated definitions in response to the changes in Federal law, such as the Health Insurance Portability and Accountability Act (HIPAA) privacy standards. Additionally, an entire section on

(Continued on page 3)

BOARD MEETING DATES

August 11-12, 2004

October 13-14, 2004

December 1-2, 2004

Alert To Physicians – West Nile Virus On The Rise

The incidents of West Nile Virus (WNV), a seasonal epidemic and potentially serious illness, are on the rise in Arizona. As reported to the Centers for Disease Control and Prevention (CDC), about 20 cases of the disease in Arizona were reported between January 1, 2004 and June 22, 2004. This figure is up from 13 total cases reported in all of last year.

While symptoms of WNV may vary from severe neuroinvasive disease to fever or other clinical manifestations such as acute flaccid paralysis, the majority of this year's reported cases (14) fall under the neuroinvasive category, including West Nile meningitis and encephalitis. By late July, the Arizona Department of Health Services expects the total number of reports to exceed 60.

In bordering states, such as Colorado, the incidences of WNV reached upward of 2,000 cases last year. While about 79% of those cases presented as fever alone, 63 Colorado residents died from WNV, the highest reported WNV deaths in the country last year.

WNV grew from an initial U.S. outbreak of 62 disease cases in 1999 to 4,156 reported cases, including 284 deaths, in 2002. In 2003, the CDC confirmed the nation's first human case of West Nile Virus (WNV) in South Carolina.

To date, the majority of the states reporting a WNV outbreak are reporting incidences in avian or animal infections only. Only seven states, Arizona, California, Florida, Nebraska, New Mexico, South Dakota and Wyoming, have reported human infection cases so far this year. The first human death in Arizona was reported this June.

Fortunately for many physicians in Arizona, commercial lab tests to detect the disease have improved in reliability over the last year. As a safeguard, all positive tests for WNV are forwarded to the State lab for confirmation.

Not all states are required to report incidences of WNV to their respective Departments of Health Services. However, on August 11, 2003 the Director of the Arizona Department of Health Services (DHS) issued a temporary

emergency administrative order requiring physicians or administrators of health care facilities to submit a communicable disease report of a case or a suspect case within 24 hours of diagnosis to the local health agency by telephone or other equally expeditious means.

Under that order, laboratory directors are also required to submit weekly written or electronic reports of all positive laboratory findings of WNV.

This July, DHS will make reporting of WNV a permanent requirement. The DHS rule package before the Governor's Regulatory Review Council (GRRRC) will eliminate

communicable disease reporting requirements for some diseases and add WNV and others to a list of over 50 known diseases.

On-line resources are available to physicians and consumers at www.westnileaz.com. The CDC has launched a "*Fight the Bite*" campaign and links on its website, www.cdc.gov, provide regularly updated statistics about the

outbreak of WNV in Arizona and nationwide, as well as guidelines for consumers on how to avoid contracting the virus.

As the number of incidences of WNV in Arizona increase, it is important for physicians to comply with State requirements for reporting. Officials at DHS and the CDC are working to build trend analyses and to provide increased information to health care providers and the public.

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Changes to Medical Record Laws

(Continued from page 1)

releasing medical records pursuant to a subpoena has been added. The following outline provides general updates on the statutory language. For the full text, visit the Arizona State Legislature website at www.azleg.state.az.us. These statutes will also be included in next year's *Medical Directory and Resource Handbook*.

A.R.S. 12-2291: Definitions

The definition of "medical records" has been condensed to read, "all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment,".... Two new definitions for "payment records" (communications related to payment for a patient's health care that contain individually identifiable information) and "source data" (information that is summarized, interpreted or reported in the medical record, including x-rays and other diagnostic images) were also added.

A.R.S. 12-2292: Confidentiality of medical records

Payment records are now considered to be part of the confidential medical record. Medical records are privileged and confidential unless disclosure is authorized by State or Federal law or upon written authorization signed by the patient or the patient's health care decision maker.

A.R.S. 12-2291: Release of medical records

Health care providers may deny requests for access to medical records to a patient being treated for a mental disorder. However, the terms for withholding those records have been redefined to provide greater clarity for the exact circumstances under which release of those medical records may be denied.

A.R.S. 12-2291: Release of medical records to third parties

Health care providers may now disclose medical records without written authorization as authorized by State or Federal law, including the HIPAA standards, and to Arizona health profession regulatory boards.

A.R.S. 12-2294.01: Release of medical records to third parties pursuant to a subpoena

This new section of law instructs health care providers on when medical records can be released pursuant to a subpoena and how to deliver those records appropriately.

A.R.S. 12-2297: Retention of Records

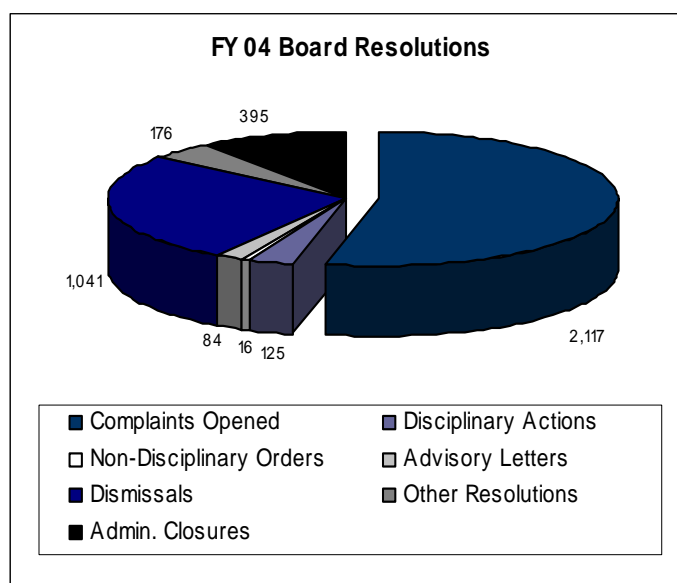
The number of years a health care provider must retain medical records on a child is changed from *seven* years to *six* years after the last date of medical services **or** three years after the child's eighteenth birthday, **whichever date occurs later**. A change in this law also allows source data to be maintained separately from the medical record and requires this data to be retained for six years after the date of collection.

Medical Board Resolves 1,837 Complaints

Last year, over 2,100 complaints were filed with the Medical Board. Following a thorough investigative process, 1,837 cases, including those filed in years prior, were resolved. Of these resolved cases, the majority, or 57% were dismissed as having no merit and almost 400 cases were administratively closed. The following is a breakdown of the fiscal year 2004 Board actions:

- 1,041 Dismissals—57%
- 84 Advisory Letters—4.5%
- 16 Non-Disciplinary Orders—0.9%
- 125 Disciplinary Orders—6.8%
- 395 Administrative Closures—21.5%
- 176 Other Resolutions—9.6%

Furthermore, when considering the entire physician population (approximately 16,000 licensees) fewer than 1% of all physicians are disciplined each year.



9545 East Doubletree Ranch Road
Scottsdale, AZ 85258
Phone: 480-551-2700
In-State Toll Free: 877-255-2212
Fax: (480) 551-2704
Website: www.azmdboard.org
Email: questions@azmdboard.org

Legislation Benefits Physician Practices

During this year's legislative session, the Board successfully passed a bill that provides clarity on the definition and practice of office based surgery and develops a basis for a confidential practitioner health program.

Office Based Surgery

In 2003 the Board formed a subcommittee to research outpatient surgery centers that are not regulated by the Arizona Department of Health Services. These surgery centers have no guidelines in place for the training of surgery assistants and for the administration of intravenous anesthesia. Legislation passed this year defines office based surgery as "a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center" and makes it an act of unprofessional conduct to practice it without adhering to Board rule.

Within the next fiscal year, the Board will work with its stakeholders to develop rules to address Intravenous Seda-

tion including the training of facility personnel, administration, and patient selection. Additional discussions will be had regarding minimum standards for operating and emergency equipment and policies for the emergency transfer of patients.

Practitioner Health Program

While many Board programs focus on physicians who violate the law, this year, the Board successfully passed legislation that provides a confidential program for those licensees who have a medical, psychiatric, psychological or behavioral health disorder that may impact that licensee's ability to safely practice medicine or perform healthcare tasks. It is a proactive program for licensees who have not committed an act of unprofessional conduct to receive treatment and take the steps necessary to ensure positive patient relationships.

Within the next year, the Board will begin to establish contracts with other organizations to operate the program.

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